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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/509,433

05/30/2000

ROBIN WALTER MILLS

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28213

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08/28/2006

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SAN DIEGO, CA 92121-2133

EXAMINER

NEGRON, ISMAEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/509,433	<b>Applicant(s)</b> MILLS ET AL.	
	<b>Examiner</b> Ismael Negron	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 32-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on July 31, 2006 has been entered. Claims 32-38 have been amended. Claims 27, 31 and 39 have been cancelled. No claim has been added. Claims 32-38 are still pending in this application, with Claim 32 being independent.
2. The drawings were received on July 31, 2006. These drawings are acceptable.

### ***Title***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Optical Irradiation Device having LED and Heat Pipe.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 32-38 are rejected under 35 U.S.C. 102(b) as being anticipated by MASAMI et al. (U.S. Pat. 4,729,076).

5. MASAMI et al. discloses an illumination device having:

- **one or more light emitting diodes (as recited in Claim 32),**  
Figure 4, reference number 1;
- **the light emitting diodes being for emitting radiation (as**  
**recited in Claim 32), inherent;**
- **one or more heat pipes (as recited in Claim 32),** column 2, lines  
30 and 31;
- **the light emitting diodes being thermally connected to the heat**  
**pipe (as recited in Claim 32),** column 2, lines 25-34;
- **a thermal connector (as recited in Claim 32),** Figure 4, reference  
number 2;
- **the thermal connector being positioned between the light**  
**emitting diodes and the heat pipe (as recited in Claim 32), as**  
evidenced by Figure 4;
- **the heat pipe conducting heat away from the light emitting**  
**diodes (as recited in Claim 32),** column 2, lines 25-34;
- **a fan or Peltier device proximate to the heat pipe (as recited in**  
**Claim 33),** column 2, lines 32 and 33;
- **a heat sink (as recited in claims 34 and 35),** Figure 4, reference  
number 4;

- **the heat sink being in thermal contact with the heat pipe (as recited in claims 34 and 35), column 2, lines 28-32;**
- **the heat pipe providing means for cooling the light emitting diodes such that the light emitting diodes are capable of being driven to produce more radiation than they would be capable of without the heat pipe (as recited in Claim 36), inherent;**
- **the light emitting diodes being a plurality of light emitting diodes (as recited in claims 37 and 38), as seen in Figure 4;**
- **the plurality of light emitting diodes being formed in one or more clusters (as recited in Claim 37), as seen in Figure 4; and**
- **the plurality of light emitting diodes being formed in one or more arrays (as recited in Claim 38), as seen in Figure 4.**

#### ***Response to Arguments***

6. Applicant's arguments filed July 31, 2006 have been fully considered but they are not persuasive.

7. Regarding the Examiner's rejection of Claim 32 under 35 U.S.C. 102(b) as being anticipated by MASAMI et al. (U.S. Pat. 4,729,076), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically a thermal connector connecting the one or more LED and the one or more heat pipes.

8. Regarding the Examiner's rejection of claims 33-38 under 35 U.S.C. 102(b) as being anticipated by MASAMI et al. (U.S. Pat. 4,729,076), the applicant present no arguments.

9. In response to applicant's surprising arguments that MASAMI et al. failed to disclose individually, or suggest in combination, a thermal connector connecting the one or more LED and the one or more heat pipes the applicant is respectfully advised that while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 70 USPQ2d 1827 (Fed. Cir. May 13, 2004).

In this case, as admitted by the applicant, MASAMI et al. discloses a plurality of LED 1 mounted on a circuit board 2 disposed on a board 3, such board including a plurality of heat sink 4. MASAMI et al. further states that the heat generated by the LED 1 is led to the heat sink 4 so that heat can be efficiently dissipated from the surface of the heat sink 4. A plurality of heat pipes are used for thermally connecting the board 3 to the heat sink 4 when not integrally made. The space between the circuit board 2 and the board 3 is filled with a resin filler 6 and an electrically insulating sheet 5. The combination of the circuit board 2, the resin filler 6 and the insulating sheet 5 were considered as meeting the claimed thermal connector limitations, as such elements thermally connect the LED 100 to the board 3. However, even if no such thermal

connecting structure was disclosed by MASAMI et al., the instant invention would still be anticipated by MASAMI et al., as such reference clearly specifically states that the heat sink 4 removes heat from the LED 100 (column 2, lines 25-34), such heat removal inherently requiring a thermal connection between the LED 100 and the heat sink 4.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached at (571) 272-2378. The facsimile machine number for the Art Group is (571) 273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.



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